

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1398 be amended to read as follows:

1 Page 6, between lines 22 and 23, begin a new paragraph and insert:
2 "SECTION 5. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2009 (RETROACTIVE)]:

5 **Chapter 33. Credit for Capture and Sale of Carbon Dioxide for**
6 **Enhanced Oil and Gas Recovery**

7 **Sec. 1. The general assembly finds that incentives are needed to**
8 **reduce the release into the air and water of carbon dioxide**
9 **produced by Indiana businesses and that the tax credit provided by**
10 **this chapter is necessary to increase the capture of carbon dioxide**
11 **from industrial sources in Indiana for permanent storage in the**
12 **ground.**

13 **Sec. 2. As used in this chapter, "credit" refers to a credit against**
14 **state tax liability granted by this chapter.**

15 **Sec. 3. As used in this chapter, "industrial source of carbon**
16 **dioxide in Indiana" means an industrial source located in Indiana,**
17 **including any of the following types of plants and related facilities:**

18 **(1) A coal and natural gas fired electrical generating power**
19 **station.**

20 **(2) A natural gas processing and treating plant.**

21 **(3) An ethanol plant.**

22 **(4) A fertilizer plant.**

23 **(5) A chemical plant.**

24 **Sec. 4. As used in this chapter, "pass through entity" means a:**

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) limited liability company; or

(4) limited liability partnership.

Sec. 5. As used in this chapter, "headquarters" means the building or buildings where the principal offices of the principal executive officers of an eligible business are located.

Sec. 6. As used in this chapter, "qualified carbon dioxide" means carbon dioxide captured from an industrial source in Indiana that:

(1) would otherwise be released into the atmosphere as industrial emission of greenhouse gas;

(2) is measurable at the source of capture;

(3) is compressed, treated, and transported via pipeline;

(4) is sold as a tertiary injectant in qualified enhanced oil and natural gas recovery; and

(5) is permanently sequestered in geological formations as a result of the enhanced oil and natural gas recovery process.

The term includes the initial deposit of captured carbon dioxide used as a tertiary injectant. The term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

Sec. 7. As used in this chapter, "qualified enhanced oil and natural gas recovery" has the meaning set forth in Section 43 of the Internal Revenue Code.

Sec. 8. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

(2) IC 6-5.5 (financial institutions tax); and

(3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 9. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 10. As used in this chapter, "tertiary injectant" has the meaning set forth in Section 193 of the Internal Revenue Code.

Sec. 11. A taxpayer that:

(1) captures, treats, compresses, transports, and sells qualified carbon dioxide from an industrial source of carbon dioxide in Indiana for use as a tertiary injectant in qualified enhanced oil and natural gas recovery; and

(2) resides or has its headquarters in Indiana at the time the taxpayer captures, treats, compresses, transports, and sells the qualified carbon dioxide;

is entitled to a credit against the taxpayer's state tax liability in the

1 taxable year in which the qualified carbon dioxide is used as a
2 tertiary injectant in qualified enhanced oil and natural gas
3 recovery.

4 Sec. 12. The credit to which a taxpayer is entitled in a taxable
5 year is equal to the result of:

- 6 (1) the credit amount; multiplied by
7 (2) the qualified carbon dioxide captured from industrial
8 sources in Indiana and used as a tertiary injectant in qualified
9 enhanced oil and natural gas recovery.

10 Sec. 13. The credit amount is seventy-five cents (\$0.75) per one
11 thousand (1,000) standard cubic feet.

12 Sec. 14. If the amount determined under section 12 of this
13 chapter for a taxpayer in a taxable year exceeds the taxpayer's
14 state tax liability for that taxable year, the taxpayer may carry the
15 excess over to the following taxable years. The amount of the credit
16 carryover from a taxable year shall be reduced to the extent that
17 the carryover is used by the taxpayer to obtain a credit under this
18 chapter for any subsequent taxable year. A taxpayer is not entitled
19 to a carryback. A taxpayer is not entitled to a refund of any unused
20 credit.

21 Sec. 15. If a pass through entity does not have state tax liability
22 against which the tax credit may be applied, a shareholder,
23 partner, or member of the pass through entity is entitled to a tax
24 credit equal to:

- 25 (1) the tax credit determined for the pass through entity for
26 the taxable year; multiplied by
27 (2) the percentage of the pass through entity's distributive
28 income to which the shareholder, partner, or member is
29 entitled.

30 Sec. 16. To receive the credit provided by this chapter, a
31 taxpayer must claim the credit on the taxpayer's state tax return
32 or returns in the manner prescribed by the department. The
33 taxpayer must submit to the department all information that the
34 department determines is necessary to calculate the credit
35 provided by this chapter and to determine the taxpayer's eligibility
36 for the credit.

- 1 **Sec. 17. The department may adopt rules under IC 4-22-2 and**
2 **prescribe standards and forms to implement this chapter,**
3 **including formulas for determining the percentage of qualified**
4 **carbon dioxide attributable to Indiana when carbon dioxide**
5 **originating in more than one (1) state or country is combined**
6 **before being used as a tertiary injectant."**
7 Renumber all SECTIONS consecutively.
 (Reference is to HB 1398 as printed February 18, 2009.)

Representative Koch